

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5955 OF 2023

Rajesh Gulab Kalbhor ... Petitioner.
Vs.
Pimpri Chinchwad Municipal
Corporation & Ors. ... Respondents.

.....

Mr. T.D.Deshmukh a/w Mr Sagar Kursija, for petitioner.

Mr. Y.D. Patil, AGP for State-Respdt. no.4.

Mr Deepak R. More a/w Shivram Gawade for Respondents no.1
and 2.

**CORAM: G.S.KULKARNI &
R.N.LADDHA, JJ.**

DATE : 27 APRIL, 2023.

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P.C. :-

Heard the learned Counsel for parties.

2. This petition has been filed by the petitioner being aggrieved by the notice dated 11.4.2023 issued by the municipal corporation, u/s 53 of the Maharashtra Regional and Town Planning Act, 1966

(for short “MRTP Act”). The prayers as made are required to be noted which reads thus :

- a) Rule may kindly be issued;
- b) This Hon’ble Court may kindly be pleased to quash and set aside impugned Notice dated 11.4.2023 issued by Respondent no.1 and 2 (Exhibit G);
- c) Pending the hearing and final disposal of present writ petition, this Hon’ble Court may kindly be pleased to stay the effect, implementation and operation of impugned Notice dated 11.4.2023 issued by Respondent No.1 and 2 (Exhibit G);
- d) Pending the hearing and final disposal of present writ petition, this Hon’ble Court may kindly be pleased direct Respondent No.1 and 2 to not to take any coercive action on the basis of impugned Notice dated 11.04.2023 issued by Respondent No.1 and 2 (Exhibit G);
- e) Ad-interim relief in terms of prayer clauses (c) and (d) above may kindly be granted;
- f) Any other relief in the interest of justice may kindly be passed.

3. Having perused the impugned notice, it is seen that the notice is not issued in accordance with Section 53 of the Maharashtra Regional and Town Planning Act. It is a vague notice. Section 53 is to be read with Section 52. This for the reason that Section 53 of the MRTP Act, necessarily takes within its ambit applicability of Section 52, which makes specific provisions under sub-section (1). Thus, there cannot be a blanket notice under

section 53 merely referring to Section 53. It would be necessary that the notice under section 53 also needs to refer to necessary clauses under sub-section (1) of Section 52. This more particularly when a situation as in the present case arises, namely, that the petitioner is intending to apply for regularization and whether it would be permissible for the construction in question to be regularized considering the provisions of Section 52(1) and the ingredients of Clauses (a) to (d) thereof.

4. In the aforesaid circumstances, a clear notice under section 53 read with Section 52 referring to the relevant clauses under sub-section (1) would be required to be issued by the respondent-Corporation.

5. Considering the vague nature of the impugned notice, we have no alternative but to quash and set aside the same. We, accordingly, dispose of the petition by the following order:

- (i) The impugned notice dated 11 April, 2023 issued by the Municipal Corporation under section 53 is quashed and set aside.

(ii) The Municipal Corporation is permitted to issue a fresh notice. Mr. More learned Counsel for the corporation states that it shall be issued within a period of 10 days from today.

(iii) All contentions of the parties in that regard are expressly kept open.

6. Parties to act on the authenticated copy of this order.

[R.N.LADDHA, J.]

[G.S.KULKARNI, J.]